THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.11594 OF 2006

ORAL ORDER:

This writ petition is filed seeking a declaration that the eviction order dated 26.7.2004 passed by the 2nd respondent under the provisions of the A.P. Scheduled Areas (Land Transfer) Regulation 1 of 1959 read with Regulation 1 of 1970 is arbitrary and illegal.

At the outset, it is to be noted that against the order impugned, an alternative remedy of appeal is available under the statute, and as a matter of fact, the petitioner has already preferred such an appeal, which is pending before the 1st respondent. However, the learned counsel for the petitioner contends that since the impugned order of eviction was passed without notice to the petitioner and it being in violation of the principles of natural justice was a nullity, and therefore, notwithstanding the pendency of appeal, it is open to the petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. In support of his contention, the learned counsel for the petitioner relied upon the decision of the Supreme Court in **Institute of chartered Accountants of India v. L.K. Ratna**.

There can be no dispute about the well-settled principle that availability of alternative remedy under the statute is not a bar to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, where the order itself was without jurisdiction or where the same was passed in violation of principles of natural justice. However, in the case on hand, the petitioner has already invoked the remedy of statutory appeal, which is admittedly, pending before the 1st respondent. In the affidavit filed in support of the writ petition, it was stated that the said appeal was filed along with an application to condone the delay. The only grievance of the petitioner appears to be that the 1st respondent failed to consider the appeal filed along with miscellaneous applications, and in the meanwhile, the petitioner is likely to be dispossessed.

Having regard to the facts and circumstances of the case, I am of the opinion that this is not a fit case where the interference of this Court is warranted at this stage.

Accordingly, the writ petition is disposed of with a direction to the 1st respondent to consider the miscellaneous applications i.e., application for condonation of delay as well as the application for stay of the order of eviction, filed by the petitioner in L.T.R. Appeal A.S.No.ITDA/04/2006 filed against the order in TWA1/02/2004 dated 26.7.2004 passed by the 2nd respondent and to pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of one week from the date of receipt of a copy of this order.

The writ petition is accordingly, disposed of. No costs.

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(G. ROHINI, J.)

13th June, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.11594 OF 2006

13th June, 2006.

Between:

Syed Ibraheem. .. Petitioner.

And

The Agent to the Government (Project Officer) ITDA at Utnoor, Adilabad district and two others. .. Respondents.